

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI-DNTPPA
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 28-14

TO: STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Reauthorization of the Work Opportunity Tax Credit (WOTC) Program for 2014 and Authorization Lapse for 2015

1. **Purpose.** To inform the State Workforce Agencies (SWAs) of the retroactive legislative reauthorization of the WOTC program for all WOTC current target groups and the Empowerment Zones (EZs) that had previously expired on December 31, 2013. Also, to provide guidance to SWAs, participating agencies and other Federal and State partners for processing WOTC certification applications filed by employers and their representatives during the authorization lapse of 2015 and beyond.

2. **References.**

- Sections 119 and 139 of the Tax Increase Prevention Act of 2014 (Pub. L. 113-295) signed into law by President Obama on December 19, 2014.
- Sections 309 and 327 of the American Taxpayer Relief Act of 2012 (Pub. L. 112-240).
- Section 261 of the VOW to Hire Heroes Act of 2011 (Pub. L. 112-56) (the VOW Act).
- The American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act).
- Internal Revenue Code of 1986, Section 51, as amended.
- Internal Revenue Service (IRS) Notice 2013-14 (March 7, 2013).
- IRS Notice 2012-13 (February 27, 2012).
- Training and Employment Guidance Letter (TEGL) No. 8-13, *Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse.*
- TEGL No. 24-12, *Reauthorization of the Work Opportunity Tax Credit Program and Continuation of the VOW to Hire heroes Act Veteran Groups and Provisions.*
- TEGL No. 10-12, *Guidance for Work Opportunity Tax Credit (WOTC) American Recovery and Reinvestment Act of 2009 (Recovery Act) Two Expired Target Groups' Applications.*
- TEGL No. 4-12, *Revised Forms for the WOTC Program for Implementation of the Veterans Opportunity to Work to Hire Heroes Act of 2011 (VOW Act) Provisions and Other Program Changes.*

RESCISSIONS None	EXPIRATION DATE Continuing
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- TEGL No. 30-11, *Information and Guidance on the Work Opportunity Tax Credit Provisions Introduced by the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, and IRS Guidance on Submission of Form 8850* (May 24, 2012).
- ETA Handbook No. 408, November 2002, Third Edition (the Handbook).
- August 2009 Addendum to Handbook 408.

3. **Background.** The *Tax Increase Prevention Act of 2014* (the Act) reauthorized the WOTC program, without any amendments to the program. Specifically, the Act retroactively extended all the current WOTC target groups, without changes or new provisions, from December 31, 2013 through December 31, 2014.

Prior to passage of the Act, the legislative authority for all current WOTC target groups had expired on December 31, 2013. The Employment and Training Administration (ETA) had provided procedural guidance to the SWAs and the employer community in TEGL No. 8-13 regarding requests for certifications submitted to SWAs during the authorization lapse that resulted in the 2014 hiatus period. This guidance directed states to continue accepting applications for new employees in the current groups hired on or after January 1, 2014, but to postpone final processing of those certification requests pending further Congressional legislative action and guidance.

4. **Reauthorization Provisions.** On December 19, 2014, President Obama signed into law the *Tax Increase Prevention Act of 2014*. Section 119 reauthorized the extension of the WOTC program and Section 139 reauthorized the extension of the Empowerment Zones, both through December 31, 2014. This legislation retroactively reauthorizes all current WOTC target groups from December 31, 2013 through December 31, 2014. It also retroactively reauthorizes the Empowerment Zones from December 31, 2013 through December 31, 2014. See Section 10 of this TEGL for more detailed information of the status of Empowerment Zones. Information on the eligibility requirements for the current WOTC target groups is available at: <http://www.doleta.gov/business/incentives/opptax/eligible.cfm>.
5. **Transition Relief for Employers' Submission of Form 8850 for All WOTC Target Groups.** Section III, p. 2, of IRS Notice 2015-13 provides taxable employers, including tax-exempt, 501(c) organizations, with transition relief from the 28-day timely filing requirement by providing additional time to file IRS Form 8850 with the SWAs. The Notice is available at <http://www.irs.gov/pub/irs-drop/n-15-13.pdf>. Under the Notice, an employer who hires a qualified member of the current target groups (on or after January 1, 2014), and before (January 1, 2015), will be considered to have satisfied the 28-day timely filing requirement if the employer submits IRS Form 8850 to the SWA to request certification not later than April 30, 2015. A timely request for certification does not eliminate the requirement for the employer to receive a certification before claiming the credit.
6. **Procedural Guidance for 2014 Hires.** The retroactive extension granted by P.L. 113-295 applies to new hires that began to work for an employer on or after December 31, 2013, and before January 1, 2015. Previous authorizations applied to new hires that began to work for an employer before December 31, 2013. Therefore SWAs may issue final determinations for

all timely filed certification requests for new hires that began to work before January 1, 2015, except for those that require the worker to have the worker's principal place of abode in an empowerment zone – see Section 8 of this TEGL for more detailed information of the status of Empowerment Zones.

a. For SWAs that processed all certification requests received during the 2014 hiatus
SWAs that processed most or all of the certification requests received during the 2014 hiatus, and filed but did not issue those determinations should issue those certifications and denials to employers or their representatives. However, see Section 8 of this TEGL for more detailed information of the status of Empowerment Zones.

b. For SWAs that did not process all certification requests received during the 2014 hiatus
SWAs that received and filed, but did not process, all timely submitted certification requests during the 2014 hiatus should process and conduct all required eligibility determination activities for certifications requests received during the hiatus, and issue all final determinations (certifications and denials) to employers or their representatives. However, see Section 8 of this TEGL for more detailed information of the status of Empowerment Zones.

7. Guidance for the Current Authorization Lapse or Hiatus. Because the WOTC reauthorization expired on December 31, 2014, WOTC is in a “hiatus” period as of January 1, 2015. During previous hiatus periods, ETA has instructed SWAs to accept applications (certification requests) in anticipation of a retroactive reauthorization. ETA is using the same process and providing the same guidance for the current hiatus period. SWAs must continue to accept applications for the expired target groups after December 31, 2014, but must hold off on processing the requests pending further legislative action and guidance from ETA. This guidance applies to all the expired WOTC target groups.

A. Mandatory Procedures

- SWAs must accept and fully process (i.e. issue certifications or denials) all timely filed WOTC certification requests for employers' new hires made on or before December 31, 2014. However, see Section 8 of this TEGL for more detailed information of the status of Empowerment Zones.
- SWAs must accept, date stamp, log, and retain certification requests for employers' new hires made on or after January 1, 2015, until informed otherwise by ETA. States may not issue eligibility certifications unless the program is reauthorized.
- SWAs and participating agencies should continue to issue Conditional Certifications (ETA Form 9062).

B. Voluntary Procedures

- SWAs with sufficient resources may conduct all steps necessary to process certification requests up to, but not including, issuance of the actual certification or denial.

8. **Empowerment Zones.** While the Tax Increase Prevention Act of 2014 did provide legislative reauthorization for the Empowerment Zone (EZ) designation, to extend the designations, the termination dates in state and local governments' nominations for designation must be amended to a termination date of December 31, 2014. These designations expired at the end of 2013. The IRS is currently preparing guidance that explains how State or local governments amend nominations for designation

SWAs should continue to accept certification requests for the Summer Youth and Designated Community Resident (DCR) groups, which require residence in the expired EZs, but hold off on processing those requests pending further guidance from ETA. It is expected that SWAs will be able to process the pending applications as soon as nominations for designation are changed to have a termination date of December 31, 2014. SWAs may continue to process timely filed certification requests for eligible members of the DCR target group who reside in Rural Renewal Counties.

9. **ETA Program Forms.** The WOTC related forms remain the same. SWAs, employers, their representatives and other program partners should continue to use the following processing, administrative and reporting ETA WOTC forms: 1) ETA Form 9058 (Report 1), 2) ETA Form 9061 (Individual Characteristics Form), 3) ETA Form 9062 (Conditional Certification) and ETA Form 9063 (Certification). These forms are approved by OMB under the Paperwork Reduction Act through June 30, 2015, under OMB approval number 1205-0371. All program forms are available at:
<http://www.doleta.gov/business/incentives/opptax/forms.cfm>.

The IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*, and related instructions have not changed at this time.

10. **Action Requested.** SWA administrators are requested to:

- Provide this information to all appropriate WOTC program staff, employers and their representatives, participating agencies and other interested partners; and
- Ensure that the WOTC State Coordinators and participating agencies implement the requirements outlined in this TEGL effective the date this guidance is issued.

11. **Inquiries.** Questions regarding this guidance should be sent to the appropriate WOTC Regional Coordinator listed on the WOTC program Web site at: <http://www.doleta.gov/wotc>.